Remarks/Arguments

Status of Claims

Claims 1-26 were originally filed in the application to which the present case claims priority. Claims 1-26 have been rejected under various rejections. As outlined above, Claims 1, 6, and 7 have been amended; and Claims 15-26 have been canceled. Therefore, Claims 1-14 are pending in this application.

The amended claims are fully supported in the specification as originally filed. In particular, the newly added language in Claims 1, 6, and 7 is supported in the specification at page 20, lines 19-34; at page 9, lines 18-23; and at page 18, lines 1-12.

Rejections

Claim Rejections – 35 USC 101

Claims 1-26 are rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter.

The Office indicates that a patentable process either (1) must be tied to a machine or apparatus or (2) must transform underlying subject matter, such as an article or materials, to a different state or thing. It also indicates that the involvement of the machine or transformation should not be nominal.

Applicants have amended the independent claims to tie elements of the process to a machine – a computer – that performs significant elements of the process. The invention of currently pending Claim 1 relates to a method of providing an individualized hair care program to a customer. The method includes entering personal information from a customer into a computer in a first retail location, using the personal information to generate scores according to predetermined criteria to create an individualized hair care program for the customer, providing the individualized hair care program to the customer in the first retail location. The first retail location is one of a

plurality of retail locations in data communication with one another. The individualized hair care program includes at least two elements selected from the group consisting of a recommendation for at least one hair care product, a recommendation for at least one hair care activity, and a recommendation for at least one hair care service, wherein the selection is based on the scores derived from the personal information. At least one of the steps of generating scores according to predetermined criteria and selecting elements of the individualized hair care program is performed by a computer.

For the reasons outlined above, Applicants believe that the presently pending claims relate to patentable subject matter and comply with 35 USC 101. Reconsideration of this rejection is earnestly solicited.

Claim Rejections – 35 USC 102

Claims 1-23 stand rejected under 35 USC 102(a,e) as being anticipated by Peyrelevade, US Pat. App. No. 2003/0065636A1. Applicants respectfully traverse this rejection.

As a preliminary matter, Applicants note that Claims 15-26 have been canceled. This response will be limited to the currently pending claims.

The invention of Claim 1 is described, above, and the inventions of Claims 6 and 7 are similar. Peyrelevade purports to describe the use of Artificial Intelligence in providing beauty advice. In particular, the reference generally describes systems for coordinating selection of beauty products that are complimentary.

The Office indicates,

> Peyrelevade discloses a method of providing an individualized hair care program to a customer, the method comprising, in a first retail location: a) obtaining personal information from a customer; (Figure 1A(100)) b) using the personal information to create an individualized hair care program for the customer (Figure IA, par. 38,40); c) providing the individualized hair care program to the customer, wherein the individualized hair care program comprises at least two elements selected from the group consisting of a recommendation for at least one hair care product, a recommendation for at least one hair care activity,

and a recommendation for at least one hair care service; (Figure 17; par. 67, 90-93) d) wherein the first retail location is one of a plurality of retail locations in data communication with one another. (Figure 4; pars. 51,143)

Office Action mailed 12/24/2008, page 4.

Applicants respectfully submit that Peyrelevade fails to teach the invention of presently pending independent Claims 1, 6 and 7. First, Peyrelevade teaches coordinating aspects of beauty care using an Artificial Intelligence ("AI") system. Applicants could not locate a specific reference to providing an individualized hair care program that includes at least two elements selected from the group consisting of a recommendation for at least one hair care product, a recommendation for at least one hair care activity, and a recommendation for at least one hair care service. The Office identifies para. 67 as teaching this individualized hair care program. However, Applicants' representative's review of this paragraph reveals only that the AI engine has access to information about a product that may have associated with it information relating to:

1. type of product,
2. type of makeup,
3. color,
4. compatible skin type,
5. compatible skin tone,
6. compatible eye color,
7. compatible hair color,
8. inter-cosmetic compatibility,
9. and/or compatibility of cosmetic and non-cosmetic products.

Applicants' representative cannot locate a teaching of creating an individualized hair care program that includes at least two elements selected from the group consisting of a recommendation for at least one hair care product, a recommendation for at least one hair care activity, and a recommendation for at least one hair care service in this passage of Peyrelevade.

The Office also appears to reference paragraphs 90-93 as teaching this individualized hair care program. Applicants' representative has reviewed these

paragraphs and cannot discern the teaching of creating an individualized hair care program in this extended passage.

For the reasons outlined above, Applicants respectfully submit that Peyrelevade fails to teach or suggest the invention of the presently pending claims. Therefore, Applicants request reconsideration and withdrawal of the rejection of Claims 1-23 under 35 USC 102(a,e) as being anticipated by Peyrelevade.

Claims Rejections – 35 USC 103

Claims 24-26 stand rejected under 35 USC 103(a) as being unpatentable over Peyrelevade as applied to claim 15 in view of Pruche et al., US Pat. App. No. US 2003/0065523A1 ("Pruche"). Applicants respectfully submit that the cancellation of Claims 15-26, above, renders this rejection moot.

Applicant believes that the foregoing presents a full and complete response to the outstanding Office Action. Applicant looks forward to an early notice of allowance for this application.

Date: _March 24,2009_   _/Joel A. Rothfus/_
Johnson & Johnson   Joel A. Rothfus
One Johnson & Johnson Plaza   Registration No. 33,277
New Brunswick, NJ 08933-7003   732-524-2722
Customer No. 000027777